it may not be improper for an individual to haed an investigation of, and to attempt to throw such lights upon, the subject, as may enable his rellow citizens to form a right judgment of the controversy. In this free government every free-man has a right to express his fentiments pubman has a right to expreis his fentiments publicly, on public matters, the conduct, and proceedings of our legiflature. Without farther preface or apology, therefore, I shall proceed to exemine the reasons adduced in the meslages of the delegates to the fenate, vindicating the justice and policy of conficating British property. Their last mestige is introduced by the remark, that in the discussion of most subjects the disputants frequently mix extraneous matter, in order to draw off the attention of, and bewilder the reader; and then afferts, there are only two points in dilpute between the two houses.

Finft; Whether the feizure and confication of all British property (debts only excepted) belong-ing to British subjects in this state, is supported and justified by the law of nature and nations. Secondly; Whether policy requires or torbids the exercise of the right of leizure at this time.

Although the message afferts, that the description of British subjects in the bill, the line drawn to aftertain them, whether persons are included who ongut not, and the mode of obtaining or disposing of that property, are points foreign to, and which ought not to be blended with, the aand which ought not to be blended with, the above queffions; I beg leave to differ from this opinion of the delegates. These several matters we so intimately connected with, and arise so naturally out of the subject, that the latter cannot well be developed and understood, unless the former are discussed; the justice and policy of the measure depending on the knowledge of the true objects of the one, and the probable consequences of the other. For surely the seizure and confisof the other. For furely the feizure and conni-cation of British property is not a mere specula-For furely the feizure and confil tive and metaphytical question, on which our le-gistators are, like ichool divines, to exercise a tubtle ingenuity, for the amusement of the curious, and idle; their duty I apprehend to be very different; they should consider, not only whether by the utnost rigour of the law of nations British property may be justly con-ficated, but also, whether the confication would be confiftent with true policy, and the prefent practice of the civilized nations of Europe; and whether it be practicable to draw a line, upon the principles of the rejected bill, for diferiminating British subjects from our own, without violating our bill of rights, and the preversion of law. The justice of the measure, depending on the proper objects of it, the latter must first be becaused described, before we can with proknown and alcertained, before we can with pro-priety determine on the former: the policy of it cannot well be appreciated, and judged of definitively, until the most material consequences, which might probably result from the confer which might probably refult from the confifca-tion of British property, shall be traced out, and exposed to the public view; if in the course of such an investigation, it should be evinced, that every bill, framed upon the principles of the one, rejected by the fenate, would be incompatible with the letter and spirit of our constitution, could a more forcible reason for the suture rejec-tion of any fimilar bill be given? Certainly not; as every law repugnant to our bill of rights, it is conceived, is null and void. Besides the objecanother, from the danger of the precedent; its a thing of ill example and dangerous confequence for the legislature to break a new law, more especially a new form of government. Machiavel, in the 45th chapter of his first hook of discourses on Livy, has the following pertinent remark.

mark:

The commotions about the tyranny of the Decemyin being composed, and Rome restored to its old form of government again, Virginius cited Appius before the people, to answer what he had attempted upon his daughter. Appius appeared with his nobility about him; Virginius commanded him to prison: Appius cried out, he appealed to the people: Virginius replied, that he who had taken away those appeals from the backed and appeals from the companion of the proper appeals from the companion of the people the people, ought not to have any benefit by them, nor be permitted to implore their protection, whose laws and liberties could receive no protecwhose laws and liberties could receive no protection from him. Appius insisted, that they ought not to violate a thing, which they had urged with that eagerness, and ordained with that zeal. And though indeed the life of Appius was wicked enough, and there was no punishment, that he did not deserve, yet it was inhospitable, and contrary to all civil sciety, to violate their own laws, which were but newly made, and passed with so much importunity, sor, in my judgment, there is nothing so indecorous, nor of so ill example in A commonwealth, as the infraction of a

determined on, till it be afeertained, upon principies of law, who are British subjects, and whe. ther ail British subjects are aliens in this state; for upon the supposition that all British subjects are upon the happoint on that an Bring Justed site aliens, and at this time alien enemies, of course incapable of holding any property in this state, the delegates contend it is just and lawful to confiscate the property of all such: Can these British subjects, supposed aliens, be ascertained by the law of nations? If so, what necessity is there 2 positive law to ascertain them former law lays down no criterion, by which, in revolutions similar to the present, the subjects of the new are diftinguishable from those of the old government, we fould have recourse to our common or municipal law to find them out; for before we can aftertain what is private British and allea property, we must fust ascertain audat Britis subjects are aliens in this country. The de-legates wrongly concluding, that all British subregates wrongly concerning, as the concilest method, to declare by a positive law, who small be deemed British subjects, and aliens, rather than leave that point to be decided by our courts of law, upon legal grounds, originated, and fent a bill to the senate, for that purpose. I hat the bill included in the number of British, several, whom the lubfilling laws of this state consider as its own subjects, and that it would have stript them of their property, without trial, contrary to our bill of rights, and that this was realy intended, will not be denied. If the principles of law, and of our conflitution, are to be but a secondary confideration, and the obtaining, at any rate, what is called British, and alien property, should become the first, confidency will not be much attended to, or a strict adherence to our bill of rights regarded. This supposition however is irreducible. The delegates no doubt, with to inadmiffible. The delegates, no doubt, wish to adopt fome rational and confident plan to benefit the public, without exposing themselves to the charge of having violated their own laws, or the law of nations. The plan adopted by the the law of nations. The plan adopted by the delegates, at the last session, was not of this fort, but contrary to the law of nations, our common law, and the principles of our constitution. When a war breaks out between two nations (all the sub-jects in the one, being alien in the other) according to Grotius, and Rutherforth, the property belonging to the celledive body of the guilty nation, or to the criminal members thereof, may by the law of nations, he confiscated.

Now admitting (for the take of argument on-ly) all British subjects to be aliens in this state, the law of nations would not, I apprehend, authorise the seizure and confiscation of any Britist property, other than what belongs to the collective body, i. e. to the king of Great-Britain, or to his representatives, as public persons, and to the criminal members of that nation, that is, to such British subjects, who have made the injustice committed, by conmencing and prosecuting an un-just war against us, their own all by their imme-diate and direct confent. This I shall be able to prove from the authority of Rutherforth. Such of our own subjects, who, parricides like, have fought against their native country in support of despotism, or done any other act, to incur the guilt of high treason, may be cited to appear and to take their trial, or be outlawed, if they re-

That the war, on the part of Great-Britain, was in its commencement, and is in its profecution, unjust, and that the British king and par-liament declared the people of these colonies (now states) in rebellion, is certainly true; but (now itates) in rebellion, is certainly true; but that the legal confequences of fuch a declaration, is the forfeiture of all the property of the subjects of this states, as by the preamble to the bill, and in the messages is declared, I deny. The declaration itself is a nullity in law, and therefore no legal consequences can spring from it. Could the declaration of the British king and parliament convert the lawful and justifiable resistance of these colonies into rebellion? It ceristance of these colonies into rebellion? infance of these colonies into rebellion? It certainly could not. The very supposition of a whole country being in rebellion, is a monatous absurdity. That the British government would have abused their victory, and robbed and murdered under the forms of law (to judge from the conduct of their mercenaries) is highly probable; but as the depriving the colonies of their lives and property, had their resistance been unsuccessful, would not have ceased to be murder and laws of the robust of the conficating of property. ful, would not have cealed to be murder and lawless rapine; so the conficating of property, in our power, belonging to unafending British subjects, even supposing them alient, which I by no means admit, would savour too much of plunder and indiscriminate revenge. For admitting, that the British government, in case of victory, would have abused it, as stated, yet the abuse of power will never prove the right; and after all. ample in a commonwealth, as the infraction of a power will never prove the right; and after all, Great-Britain, the representative of the Britain bird law by the legislator bimself. The application is obvious; the quotation needs no comment. The institution is obvious; the quotation needs no comment. The institution of conficating the property of British subjects, as aliens, cannot, as I have said, be with the savage cruelty of our ensemies, restects on proving and egging on the war, in addresses

us the highest honour, and on them the days disgrace; let us not therefore do any one at which may tarnish the lustre of our arms and to

justice of our caute.

The quotations are little to the purpose, as duced in the last message of the delegate, a prove that the law of nature, when applied co ledive persons, as moral agents, is the law nations; that war, either civil or public, it foles governed by that law, except between nation which have entered into particular companwhich have entered into particular compan. All this is true, and may be admitted and out the least prejudice to the affertion, "that is properly of ineffective British fulfields is not had by the land of nations, to feizure and confeasur." It was scarce worth the while to write to may the denied, this them. to prove, what will not be denied, that the pre fent was in its origin a civil, and fince the acclaration of independence, is become a patient felema war. The law of nations, those mains of humanity, and those common laws of war of which Vattell speaks, as eited in the me fage, mult, for the reasons affigned by that at thor, apply to both kinds of war equally. We he means by the maxims of humanity and moden tion in carrying on war, he explains in fomema-fure afterwards, by faying, "nevertheless warte-ing now carried on with so much moderation are indulgence, inte-guards are allowed to hera and lands possessed by foreigners in an enemy country; for the same reason, he who declara war does not conflicate the immoveable goods folife in his country by his enemy's fabjects, but the come may be fequestered for hindering the mittance of it to the enemy's country. A so reign may conflicate debts of his subjects, who may be indebted to enemies, or he may prohib the payment while the war lasts; but at proen the payment while the war lasts; but at presign regard to the advantage and safety of comerce, all the sovereigns of Europe have dram ed from this rigour: and as this cuffer has the generally received, he who should act contray a it, would mijuse the public faith; for stringer treated his subjects so, only from a firm-per us on that the general custom would be obterved. The state does not so much as touch the sun which it owes to the enemies. Every where, a case of war, funds credited to the public are enempt from seizure and confiscation."

The advocates for the measure, indeed, con tend that there are no innocent or unoffending Br. tish subjects with respect to us; that the guil of the rubele nation is communicated to every me vidual of it; that there being no treaties or conpacts between the United States and Great-Entain, we are left to govern ourselves entire by the law of nations. These inferences at drawn from the quotations in the message, at the principles laid down, as grounded on the quotations; but the premises (I speak it was deference) will not warrant the conclusions.

The message, quoting Rutherforth, says, then are three ways by which a nation may, in just war, acquire property in the goods, which it takes from the enemies; but what is prettyre markable, it enumerates only two of the war, and mentions nothing of the third. I shall thus fore supply that defect.

"Thirdly; a nation which has committed a crime, may be punished in the same manage with an individual in the liberty of nature, by being deprived of its goods. But whilft its offending nation thus lofes its goods, the ration that takes them will acquire property is them no otherwise than either by being to Ofirst occupants, or by receiving the goods as ransom, by which the offending nation redeems itfelf frem some other punishment. Grotius coa fract from tome other pulminants. Ordered fract this way of acquiring property in war, it fuch goods only as belong either to the collection body of the flate, or to the criminal members of s. And this refriction is a very proper one; for though an injury which is done by a nation, so communicated to all the members of it, as far is this injury produces an obligation to repair di-mages, yet the guilt of it, as it implies a disposition to do harm, is confined to the collective per or of the nation, and to those particular members of it who have made it their own and by the

immediate and direct confest."

Here is a plain diltinction fet up by Grotion. and approved by Rutherforth, between the good belonging to the collective body of the state, a its representative, or to the criminal membered it, and the goods of fuch persons as are unefficing members. As far as the injury done last the injuring nation under an obligation to repair damages, the injury is communicated to all the members of that nation, but the guilt, or crimisa intention, is confined to the calledine perfer the nation (in the present case to the king of Great-Britain, the representative of the British

the crown, by carrying it on perly their own. not involved in circumitance, am not mistak ber of individu have publickly in abborrence of the led to it. If a this feate, won to conficate it a reparation of The feelings o All the caf his reasoning goods farcibly Teas, or durin tory, and not able, which i try of the inju the members goods taken krictly the pais concluded w which they w forth, er an e manded, they b that nation. taken from th mages fustaine peace is concl tatisfaction w for the dama not be deter the goods tal than equivale fides, the fu courfe idle goods taken damages and the nation tak to more than expences. I cale; to write which never waste of time The obligation the damages jured nation force of arms be denied, ve of the goods fuch fatisfacti sleat and entir mages can be war being a p war, and it whether the pentation for anjured natio so be efteem carious posses ers of the go ties; and the dered rather ors, during perty. But t

"This opi of nations, ti feme confent them our ow general opin weable go ave been tal verrun in w whilft the wa them, and the treaty of pe yet the prope fort is deen peace has a uthal in tre moveable go conclude; to bave in all wife atquire difference is ly of the mo public, and moveable go private hand confumed,

not be rett whilft the p express cente País from th lacit confent.